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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,788	12/12/2003	Tommy Rodrigues	FDN-2824 (17017)	3477

7590 05/18/2006

Attn: William J. Davis, Esq.
GAF MATERIALS CORPORATION
Legal Dept., Building No. 10
1361 Alps Road
Wayne, NJ 07470

EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,788

Applicant(s)

RODRIGUES ET AL.

Examiner

Ula C. Ruddock

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/17/06 and 3/23/06.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8,10,11,13 and 15-24 is/are pending in the application.
4a) Of the above claim(s) 15-21 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5,7,8,10,11,13,22-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 23, 2006, has been entered.
2. The Examiner has carefully considered Applicant's amendment and accompanying response filed March 17, 2006, and March 23, 2006. The rejections have been maintained.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

4. Claims 1-5, 7, 10, 11, 13, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller et al. (US 2002/0110679). Miller et al. disclose a storm proof asphalt-based roofing material includes a substrate coated with an asphalt coating, a protective coating, a layer of granules, and a web bonded to the lower region of the asphalt coating (abstract). The substrate is a nonwoven web of glass fibers [0036]. An asphalt coating is applied to the nonwoven web of glass fibers [0038]. The web is then coated with granules [0040]. The protective coating is applied as a film [0041] and can function as an adhesive. The adhesive can include any type of thermoplastic, thermoset, or asphalt-based adhesive. Some examples include polyamide, rubbers, polyesters, polyurethanes, and siloxanes [0052]. The film can also be polyvinyl chloride [0070]. Regarding claims 6 and 11, it should be noted that because the Miller reference discloses the

same materials as Applicant, the thermoplastic film will have a melting point higher than the melting temperatures of the asphalt coating said substrate or the thermosetting film will have a decomposition temperature higher than the melting temperature of the asphalt coating said substrate.

With regard to Applicant's newly amended claim 5, Miller discloses that the adhesive can be an asphalt-based adhesive and can be modified with polymeric materials [0052].

Rejection is maintained.

Claim Rejections - 35 USC § 103

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (US 2002/0110679), as shown above.

Miller et al. disclose the claimed invention except for the teaching that the polyester film is specifically a polyethylene terephthalate film. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used polyethylene terephthalate as the polyester film in the Miller et al. roofing material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. In the present invention, one would have used polyethylene terephthalate, motivated by the desire to create a roofing material that high strength and increased abrasion resistance.

Rejection is maintained.

Response to Arguments

6. Applicant's arguments filed March 17, 2006, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that the Miller reference has an additional coating layer. This argument is not persuasive because it is not commensurate in scope with the claims, as presently written. The claims do not preclude the use of additional layers, as they are written in open language (i.e. comprising). Applicant further argues that Miller discloses that the web is fused with the asphalt coating, whereas the present invention is simply adhered by the adhesive. This argument is not persuasive because the method of forming the article is not germane to the issue of the article itself. Also, Applicant's claims do not preclude any fusing method limitations. Therefore, Miller reads on the claimed invention and the rejections are maintained.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *UCR*

Ula Ruddock
Ula C. Ruddock
Primary Examiner
Tech Center 1700